

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) No. 3:15 CR 358
) Judge Jack Zouhary
YAHYA FAROOQ MOHAMMAD,)
IBRAHIM ZUBAIR MOHAMMAD,)
ASIF AHMED SALIM,)
SULTANE ROOME SALIM,)
)
Defendants.)

**DEFENDANT YAHYA FAROOQ MOHAMMAD'S
MOTION FOR PRESERVATION OF ROUGH NOTES AND LOGS**

Defendant, **YAHYA FAROOQ MOHAMMAD**, by his attorneys, **THOMAS ANTHONY DURKIN** and **JOHN CZARNECKI**, respectfully moves this Court for an order directing the government to obtain and preserve for production all rough notes prepared by law enforcement authorities and all investigative agencies and any civilian agents and informants, during the course of the investigation of this case; notes of witness interviews conducted by prosecutors and/or investigating agents; and, notes and logs relating to the execution of search warrants and other investigative activities.

In support of this motion, Defendant, through counsel, shows to the Court the following:

1. Notes prepared by an agent or prosecutor are potentially subject to discovery as embodying a defendant's statement, *see* Fed. R. Crim. P. 16, or as constituting the statement of a government witness (including, among others, the person who prepared the notes, if he or she testifies). *See* 18 U.S.C. § 3500.

2. Because notes are potentially discoverable, they must be preserved by the government. *See United States v. Harris*, 543 F.2d 1247, 1252 (9th Cir. 1976); *United States v. Harrison*, 524 F.2d 421 (D.C. Cir. 1975); *United States v. Bontkowski*, 49 F. Supp. 2d 1075 (N.D. Ill. 1999).

3. In the event that any of the materials requested in this motion have been destroyed, Defendant requests that this Court conduct a hearing and grant appropriate relief.

Respectfully submitted,

/s/ Thomas Anthony Durkin
THOMAS ANTHONY DURKIN,

/s/ John Czarnecki
JOHN CZARNECKI,
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CERTIFICATE OF SERVICE

Thomas Anthony Durkin, Attorney at Law, hereby certifies that the foregoing Defendant Yahya Farooq Mohammad's Motion for Preservation of Notes was served on May 9, 2016, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, LR 5.1 and LCrR 49.2, pursuant to the district court's system as to ECF filers.

/s/ Thomas Anthony Durkin

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